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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEPHEN RISI,

Petitioner,

- against -

CITY OF NEW YORK DEPARTMENT OF CORRECTIONS,
ET AL.,

Respondent.

10 Civ. 5836 (JGK)

MEMORANDUM OPINION
AND ORDER

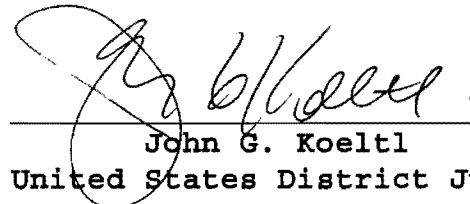
JOHN G. KOELTL, District Judge:

The Court has received the attached application for the appointment of counsel. The Court of Appeals for the Second Circuit has articulated factors that should guide the Court's discretion to appoint counsel to represent an indigent litigant under 28 U.S.C. § 1915. See Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986); Jackson v. Moscicki, No. 99 Civ. 2427 (JGK), 2000 WL 511642, at *4 (S.D.N.Y. Apr. 27, 2000). For the Court to order the appointment of counsel, the petitioner must, as a threshold matter, demonstrate that his claim has substance or a likelihood of success on the merits. See Hodge, 802 F.2d at 61-62. Only then can the Court consider the other factors appropriate to determination of whether counsel should be appointed: "[petitioner's] ability to obtain representation independently, and his ability to handle the case without

assistance in the light of the required factual investigation, the complexity of the legal issues, and the need for expertly conducted cross-examination to test veracity." Cooper v. A. Sargenti Co., Inc., 877 F.2d 170, 172 (2d Cir. 1989). The petitioner has failed to show that his claims are likely to have merit, and the application for the appointment of counsel is therefore denied without prejudice.

SO ORDERED.

Dated: New York, New York
October 1, 2010



John G. Koeltl
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Stephen Risi

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

10 Civ 5836 JGK ()

-against-

The City of New York
Department of Corrections, et al

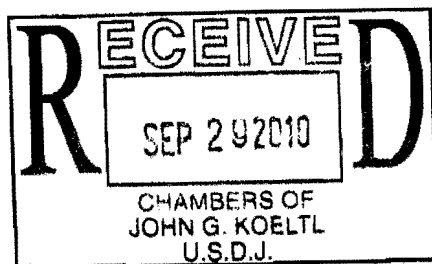
APPLICATION FOR THE COURT
TO REQUEST COUNSEL

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

1. Name of applicant. Stephen Risi
2. Explain why you feel you need a lawyer in this case. (Use additional paper if necessary)
- See Attachment -
3. Explain what steps you have taken to find an attorney and with what results. (Use additional paper if necessary)
- See Attachment -
4. If you need a lawyer who speaks in a language other than English, state what language you speak:
5. I understand that if a lawyer volunteers to represent me and my lawyer learns that I can afford to pay for a lawyer, the lawyer may give this information to the Court.
6. I understand that if my answers on my Request to Proceed *In Forma Pauperis* are false, my case may be dismissed.
7. I declare under penalty of perjury that the foregoing is true and correct.

Dated: 2010 09 11

Stephen Risi
Signature



Application for the Court to request Counsel.

2. I feel I need a lawyer in this case for the following reasons. At the moment it's solely for my safety. Since this case deals with Correction Officers. Due to a common practice of discrimination, I observed with C.O.'s who sabotage inmates access to the courts in cases dealing with prison conditions excessive force, etc. I feel an outside hand who is not subject to the control of these officers, and who has knowledge of the law can increase my chances if not ensure safety for all relating legal documents, evidence and my access to the courts.

It will also increase my chances of confidentiality for inmates property is routinely searched and in some cases it's necessary for C.O.'s to read paperwork. In situations like that I feel it can compromise the courts truth finding process. Certain documents I could entrust in the hands of my lawyer instead of having it lying around in my cell that other C.O.'s + inmates can possibly access.

3. My steps to find an attorney have been. I've written to

4/26/10- NY's Mental Hygiene Legal Service 9th Department

4/26/10- Center for Constitutional Rights Sr. Staff Att'y.

4/22/10- MFL Legal Services Inc.

4/26/10- Puerto Rican Legal Defense Education Fund.

4/26/10- MFL Legal Services Inc.

5/17/10- Joseph Freeman Legal Aid Society, Prisoners Rights Project.

6/28/10- NYC Bar

6/28/10- David G. Lerman & Ass.

8/5/10- Gerald G. Allen Goldberg & Ass.

8/20/10- Allison Berger Legal Aid Society

8/20/10- NYC Bar

→ (John)

Continued

She also written to me in the last month, I put on my coat and phone says this is also why I need a lawyer.

I've told my family, friends, jail social service and criminal attorney.

I know I could of done more to look an attorney out its pretty difficult and new to me to juggle my cases around especially since I try to give my criminal case the most attention. And in jail access to the courts and legal services is frustrating, slow, and inefficient.

Stephen Risi 980-08-01283

Step Risi

(2) of (2)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKStephen Risi

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

-against-

The City of New York Department
of Corrections, et al

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

10 Civ. 5836 (GR) ()

REQUEST TO PROCEED
IN FORMA PAUPERIS
FOR APPLICATION FOR THE
COURT TO REQUEST COUNSEL

I, Stephen Risi, (print or type your name) am the plaintiff/petitioner in the above entitled case and I hereby request to proceed *in forma pauperis* and without being required to prepay fees or costs or give security. I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor, and that I believe I am entitled to redress.

1. If you are presently employed:
 a) give the name and address of your employer
 b) state the amount of your earnings per month

2. If you are NOT PRESENTLY EMPLOYED:
 a) state the date of start and termination of your last employment
 b) state your earnings per month
 YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE INCARCERATED.

a) Sept. 6, 2008 - Dec. 15, 2008 b) \$1,200 per month

3. Have you received, within the past twelve months, any money from any source? If so, name the source and the amount of money you received.

Yes. Family. No more than \$500

- a) Are you receiving any public benefits? ☐ No. ☐ Yes, \$ _____.
 b) Do you receive any income from any other source? ☒ No. ☐ Yes, \$ _____.

4. Do you have any money, including any money in a checking or savings account? If so, how much?

☒ No. ☐ Yes, \$_____.

5. Do you own any apartment, house, or building, stock, bonds, notes, automobiles or other property? If the answer is yes, describe the property and state its approximate value.

☒ No. ☐ Yes, _____.

6. Do you pay for rent or for a mortgage? If so, how much each month?

☒ No. ☐ Yes, \$_____.

7. List the person(s) that you pay money to support and the amount you pay each month.

Alissa Risi (wife) (kids) Courtney Risi, Christina Benson,
Alexandrea Barnes. Self.

8. State any special financial circumstances which the Court should consider.

I have a wife + kids and I'm an indigent pre-trial
detainee who is currently homeless.

I understand that the Court shall dismiss this case if I give a false answer to any questions in this declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 11 day of September, 2010.
date month year


Signature

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Stephen Risi

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

10 Civ. 5836 JGK ()

- against -

The City of New York
Department of Corrections et al

AFFIRMATION OF SERVICE

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

I, Stephen Risi, declare under penalty of perjury that I have
(name)

served a copy of the attached Application for the Court to Request Counsel
(document you are serving)

upon NYC Doc whose address is 75-20
(name of person served)

Astoria Blvd. East Elmhurst NY 11370
(where you served document)

by mail
(how you served document: For example - personal delivery, mail, overnight express, etc.)

Dated: East Elmhurst, NY
(town/city) (state)

September 11, 2010
(month) (day) (year)

Stephen Risi
Signature

09-09 Hazen Street
Address

East Elmhurst, NY
City, State

11370
Zip Code

Telephone Number